

***Circuit Court for Cecil
County, Maryland***

***Differentiated Case
Management Plan***

CIRCUIT COURT FOR CECIL COUNTY, MARYLAND DIFFERENTIATED CASE MANAGEMENT PLAN

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PART I GENERAL PROVISIONS APPLICABLE TO ALL CASES

1. Purpose and Introduction

Statement of Purpose

It is the purpose of this Case Management Plan, which was developed in accordance with Rule 16-202(b), to provide an effective case management system which will assure:

- Equal treatment of all litigants by the Court
- Timely disposition consistent with the circumstances of the individual case and in compliance with the Time Standards adopted by the Judicial Council, and promulgated by the Court of Appeals.
- Enhancement of the quality of the litigation process; and
- Public confidence in the Court as an institution.

From the commencement of litigation to its resolution, whether by trial or settlement, it is the goal of this Court to reduce delay and enable just and efficient resolution of cases, with the Court, not the lawyers or litigants, controlling the pace of litigation.

The Court of Appeals has abolished local rules. This Court is governed by the Maryland Rules of Procedure promulgated by the Court of Appeals and by the Maryland Circuit Courts Time Performance Standards, a copy of which is attached hereto. We will not do anything which is not authorized by the rules; we will not fail to do anything which is required by the rules; and we will comply with the Maryland Circuit Courts Time Performance Standards.

The Maryland Circuit Courts Time Performance Standards are mandatory standards for the time it should take a circuit court to handle, from filing to final disposition, the various cases which are filed in this Court. The standards are not guidelines, they are mandatory and binding on the Court. A copy of the Standards is attached hereto as Appendix A.

2. Postponement Policy

This policy reflects Maryland Judicial Council's definitions, as follows:

Postponement – a proceeding that was not held and is being rescheduled, and

Continuance – a proceeding that has begun and is extended for additional day(s).

The purpose of this policy is to promote timely disposition and the avoidance of unnecessary delays of cases in the Circuit Court for Cecil County in accordance with the Maryland Annotated Code and the Maryland Rules of Procedure.

Postponement of any previously set court date greatly increases the challenge to the court in managing its cases expeditiously. It has a rippling effect on the clerk's office, police agencies, assignment of judicial time, and allocation of resources generally. All dates, once set, are important dates. Trial dates which take the case beyond the Maryland Time Performance Standards are violations by the court of the Standards. Postponements will be granted only for substantial, unforeseen and unforeseeable reasons which reasons make the possibility of a fair trial remote or non-existent.

In consideration of all postponement requests, the Court shall carefully apply all relevant sections of the Maryland Annotated Code and the Maryland Rules of Procedure, review possible effects of a postponement on the parties and witnesses, and evaluate future scheduling issues. The Court will meet the Maryland Circuit Court Time Standards for processing cases (copy attached). This will require a strict and uniformly applied postponement policy.

Attorneys are expected to know their schedules prior to entering their appearance in any case.

Requirements for Litigants in Making a Request for Postponement

- Requests for postponements shall be made as soon as counsel/party is aware that a reason for postponement exists.
- Requests, except those involving an emergency, shall be made within ten (10) days of the receipt of the Assignment notice.
- Requests made prior to the hearing or trial date shall be made in writing, noting a copy has been forwarded to all counsel/parties.
- Requests shall include a statement that indicates the opposing party's/parties' position on the request for postponement.
- Requests for postponements made by counsel as a result of a conflicting court date shall be accompanied by a copy of the assignment notice of the conflicting case. A conflicting case scheduled subsequently to the scheduling in Cecil County will not be a basis for

postponement. (See Court of Appeals Administrative Order by then Chief Judge Murphy)

- Unless impossible due to emergency, requests shall include an alternate date agreed upon by the parties and the Assignment Office which is within the applicable Maryland Circuit Court Time Performance Standards, a copy of which is attached. No request for postponement which does not include the alternate date will be successful. Requests for postponement which include the alternate date will not, by that fact alone, be successful; the reason(s) for the postponement must still meet the other criteria set forth herein. Requests to reschedule a court date to a date sooner than the original date will usually be granted.

On its own initiative, or if all parties are not in agreement to the postponement and/or dates for rescheduling the case, the Court may act upon the request without a hearing or issue an order requiring the parties to attend a scheduling conference.

No postponement requests in criminal cases shall be granted except by the County Administrative Judge or his/her designee, pursuant to specific written designation.

No postponement requests in civil cases shall be granted except the County Administrative Judge unless pursuant to specific written authorization issued by the Administrative Judge.

All postponement requests will be considered in accordance with Rule 2-508 in civil matters, as justice may require, Rule 11-114 b. and 11-115 in juvenile matters, or Rule 4-271 in criminal causes, for good cause shown. The Court will also apply the Administrative Order For Continuances for Conflicting Case Assignment or Legislative Duties of the Court of Appeals, a copy of that Administrative Order is attached hereto as Appendix B.

In the event that a trial or hearing is scheduled for a particular time frame and has commenced but cannot be concluded on the scheduled date(s) and time, the Judge or Master presiding is authorized to continue the matter to the next available date, except in a criminal matter if the continuance would take the case outside the 180 day rule. If such a continuance

would take the matter outside the 180-day rule, only the County Administrative Judge or his/her designee may continue the matter. Where a case carries over, i.e., starts but does not finish on the scheduled trial date, it should be carried on starting the next day and continuing until completed, and takes priority over other scheduled commitments of the attorneys involved. The trial judge will communicate with judges in other cases as necessary to deal with conflicts. Where a carried over case creates a conflict with a case scheduled for trial in the District Court in Cecil County, the Circuit Court judge will communicate with the District Court judge to reach an accommodation which creates the least inconvenience for the parties and witnesses involved in the two cases.

In CINA/TPR/Adoption cases, every effort will be made to continue the matter to the next day the court is in session and have it remain on the docket until the matter is concluded. The only exception is a case that is continued pending the receipt of additional evidence. In such a case, the matter shall be rescheduled as soon as possible. If continuing the case to the next day court is in session is not possible, it shall be continued to the next earliest possible date, keeping the timelines in mind so as not to exceed the required federal and state statutory timelines.

No postponement will be granted in a juvenile adjudicatory hearing where a child is detained or sheltered except under extraordinary circumstances and as justice so requires. Attorneys are expected to know their schedules prior to entering their appearance; no postponement of an adjudication hearing where a child is in detention or shelter care will be granted due to conflict of an attorney's schedule. All other juvenile postponement requests shall be handled in accordance with the above policy.

Requests for postponement which would take the trial date beyond the Maryland Time Performance Standard will generally be denied. Postponements will not be granted for failures

of discovery, vacation or training plans made after the trial date was set or not made known to the Court when the trial date was set, conflicts with other cases set after the trial date was scheduled, and/or last minute entry of appearance by counsel which creates a conflict with a previously set case in this or another jurisdiction.

There will be no indefinite postponements of any case. If and when a postponement is granted, the judge granting the postponement shall sign an order setting the new date. If the need for the postponement or continuance arises in open court or, because of emergency circumstances, an approved alternate date could not be provided in the request for postponement or continuance, the Court shall direct the parties to get a new trial date from the Assignment Office before leaving the Courthouse or, if, because of the emergency one of the attorneys is not present, within 48 hours. The postponing judge shall sign an order setting the new date within 72 hours.

3. Requests for Expedited Scheduling

“Emergency” hearings are not explicitly contemplated by the Maryland Rules, and this Court will not hold “Emergency Hearings.” The Rules do however explicitly contemplate expedited scheduling in certain kinds of cases. Procedures, including notice and an opportunity to be heard, for conducting such expedited proceedings, are spelled out in the Rules. Four examples, not intended to be exclusive, are domestic violence, allegations of child abuse or neglect, requests for ex parte action, including Temporary Restraining Orders, and Family Law, Section 9.5-308, each of which has its own statute, its own scheduling track, and its own rules.

Where domestic violence is alleged. If expedited scheduling is required or requested a domestic violence petition is what should be filed and the domestic violence procedure is the procedure that will be followed.

Allegations of child abuse and/or neglect. The legislature has created and funded an organization, the Department of Social Services, with the resources and the legal mandate to conduct an immediate investigation of allegations of child abuse or neglect. There is a statute and accompanying rules providing for shelter care hearings on very short notice followed by notice and appropriate due process. Upon receiving a complaint alleging child abuse or neglect, the Department of Social Services is mandated to employ its staff, which now includes prosecutors and law enforcement officers, to conduct immediately an investigation into the safety of the child, and the agency has the authority immediately to take custody of the child to assure the child's safety before a hearing the next day a judge is available. The court has neither the staff nor the authority to do those things which are mandated to the Department of Social Services. Where child abuse and neglect is alleged, the appropriate channel, if expedited handling and investigation is required or requested, is to make a complaint to the Department of Social Services for investigation.

Ex Parte actions. Maryland Statutes and Rules provide, in a situation where an immediate and irreparable harm is likely to result unless the court intervenes immediately, that the party seeking assistance can file a pleading requesting ex parte action. This is an extraordinary and seldom used and/or granted action. It requires, in order for the court to entertain the request, among other things, an affidavit under oath under Rule 1-351. The pleading must also be under oath and must set forth the reason that immediate, substantial, and irreparable harm will result if the court does not act immediately.

Family Law Article Section 9.5-308 Petition for Enforcement under Uniform Child Custody Jurisdiction and Enforcement Act.

This section provides for enforcement of an existing order under the UCCJEA, and provides for special pleading requirements and expedited scheduling. In a UCCJEA case, where the appropriate pleading is filed, the Court will follow the mandate of the statute.

Given these provisions and others of the Maryland Rules and Statutes this Court will not act precipitously on one-sided pleadings not filed under oath, not complying with the notice requirements of the rules and not setting forth the harm which will result if the court does not act right away. The Court will not hold “emergency hearings” and the forms for requesting such a hearing have been removed from the Clerk’s Office and are no longer disseminated to the public. What the court will do, when the request is made for expedited scheduling other than as set forth above, is set an expedited pendente lite hearing following notice to the adverse party and an opportunity to respond in writing, or an expedited status/scheduling conference.

4. Reconsideration

None of the judges of the circuit court, including the administrative judge, has any authority to overrule a substantive decision of another circuit court judge. Requests for reconsideration must be addressed to the judge who made the original decision and will be forwarded to that judge for action on the reconsideration. The only exceptions to this, as decided by the administrative judge, shall be unavailability of the original judge due to illness, death, retirement or prolonged absence between visits by a visiting judge. Habeas corpus requests must be filed on appropriate pleadings requesting habeas corpus relief and must be forwarded to the administrative judge for assignment to a judge to decide the habeas corpus, pursuant to Md. Rule 15-301 et seq.

5. Review Hearings and Closed Cases

Certain specific cases require review hearings at intervals as specified by statute or rule, for example, the CINA statute and TPR cases, which spell out when review hearings shall be heard.

Because other cases cannot be considered closed and are not appealable until they are final, and they are not final if a review hearing has automatically been scheduled, there shall be no automatic review hearings in family law or other cases unless mandated by statute or rule, as in CINA and TPR. While it is true that this Court retains jurisdiction to consider change in custody, visitation and/or support, it is also true that such a change should occur only where there has been a substantial change in material circumstance since the original adjudication. Therefore, in order to reopen a closed family law or other case the party requesting reopening and a change must include, in a separate pleading in addition to the pleading requesting the change, or in the pleading requesting the change the reasons supporting consideration of modification, specifically the alleged substantial change in material circumstance, or fraud, mistake or irregularity, for a civil judgment, and a request to reopen. See Rule 2-311. The court will not reopen and will not hear requests for modification, even in family law cases, until a threshold determination has been made, based on an adequate pleading, that a substantial change in material circumstances may have occurred.

6. Assignment of Cases to Judges and Transfers Between Judges

All cases will be assigned to a judge by the assignment office under the supervision and guidance of the administrative judge. In rare cases, for specific and articulable reasons, the administrative judge may make a special assignment but, generally, assignments shall be made at random with a view toward equalization of workload to the extent possible. Once a case has been assigned to a judge, including visiting judges, that case may not be moved to another judge

without the express request or consent of the judge to whom it was originally assigned. Provided that in case of illness, death or prolonged absence of the originally assigned judge, the case may be assigned to another judge to assure timeliness of disposition. Every effort will be made to achieve one case – one judge but timeliness will take priority if necessary in the opinion of the Administrative Judge. Judges who finish their dockets early shall notify the Assignment Office and other judges to offer assistance in reaching all cases on all dockets in a timely manner. Judges who see that they will not finish their docket on a given day should ask for help in shifting cases as necessary to the first available judge.

7. Compliance with Pleading Requirements

No decisions will be made nor any orders issued by this Court until or unless the appropriate required pleadings have been filed establishing a case and clearly defining the relief sought and the reasons for the relief sought, even where the parties have reached an agreement and merely seek to enroll it as a court order. See Rule 2-101(a).

Pleadings define issues; if it isn't pled it will not be heard. Practitioners have a right to rely on what is in the pleadings from each side in preparing what issues will be litigated and in making decisions as to how to expend resources on discovery and other pretrial efforts.

Maryland Rule 1-322 and the case of Montague Blundon, III vs. Shirley Taylor, 364 Md. 1 770 A.2^d 658 (2001) make it clear that pleadings are not acceptable in the form of facsimile transmission. A copy of a facsimile may be filed with the clerk but the document must actually be filed with the clerk, not received via a fax.

8. Timelines of Preparation and Appearance at Scheduled Hearings and Trials

This Plan contains extensive provisions for negotiation and settlement of cases prior to trial. The Court will not permit parties and/or their attorneys to delay negotiations until the day

of trial and expect the Court, including potential jurors, to wait to see if the parties settle. When the date and time for a trial or hearing arrives the court will call the case and proceed. Parties and their attorneys should be prepared to and expect to start at the appointed date and time.

In the past this Court has often been faced with the arrival of the previously set date and time for a proceeding with some or all of the parties and/or lawyers not present. Except in exceptional circumstances, explained to the Court in advance, the judges of this Court will take the bench on time and start calling cases. The Court will apply appropriate sanctions to parties and lawyers who are dilatory or do not appear.

PART I

APPENDIX “A”

FY2008 MARYLAND CIRCUIT COURTS TIME STANDARDS

Table I. Definition of Time Standard Terms by Case Type

Case Type	Case Time Start	Case Time Suspension		Case Time Stop	Additional Measures
		Suspend Begin	Suspend End		
Criminal 6 Months (98%)	First of either of the two dates:	FTA/Bench Warrant Issue	Warrant Service Date	Disposition	1. Arrest/Service of Summons or Citation Date to Filing in Circuit Court 2. Filing to First Appearance 3. Verdict to
	<ul style="list-style-type: none"> o First Court Appearance of Defendant, or o Entry of Appearance by Counsel (Rule 4-271) o Date should reflect the Hicks starting date. 	<ul style="list-style-type: none"> Mistrial Date NCR Evaluation Order Date Petition for Reverse Waiver Date Incompetency Evaluation Order Date 	<ul style="list-style-type: none"> Retrial Date NCR Finding Date. Reverse Waiver Decision (Denied/Granted) Date Not Incompetent Finding Date 	<ul style="list-style-type: none"> o Sentence Date for Guilty Verdict o Verdict Date for: <ul style="list-style-type: none"> o NG o STET o Probation Before Judgment 	
		PSI Order date Pre-Sentence Treatment Program Order Date	Receipt of PSI Report Date (Un)Successful Completion of Pre-Sentence Treatment Program Date	<ul style="list-style-type: none"> o NP o Reverse Waiver Granted 	
		Interlocutory Appeal Filing Date Military Leave Date Pre-Trial Treatment Program Order Date Postponement Due to DNA	Interlocutory Appeal Decision (Mandate) Filed Date Military Return Date Conclusion of Pre-Trial Treatment Program Receipt of DNA Testing Results	<ul style="list-style-type: none"> o Found 'Not Criminally Responsible' 	
Civil 18 Months (98%)	Filing Date	Bankruptcy Filing Date (Suggestion or Notice)	Order Lifting Bankruptcy Stay	<ul style="list-style-type: none"> o Disposition o Dismissal o Judgment o Order 	1. Circuit Court Filing to Service or Answer, whichever comes first
		Demand for (Non-Binding) Arbitration	(Non-Binding) Arbitration Reinstatement Date	Arbitration	
		Interlocutory Appeal Filing Date Military Leave Date	Interlocutory Appeal Decision (Mandate) Date Military Return Date		
		FTA/Body Attachment Issue Date	Body Attachment Service Date		

Table L Definition of Time Standard Terms by Case Type, Continued

Case Type	Case Time Start	Case Time Suspension		Case Time Stop	Additional Measures
		Suspend Begin	Suspend End		
Domestic 12 Months (90%)	Filing Date [†]	Bankruptcy Filing Date (Suggestion or Notice)	Order Staying Bankruptcy Date	o Disposition	1.. Circuit Court Filing to Service or Answer, whichever comes first
		Interlocutory Appeal Filing Date	Interlocutory Appeal Decision (Mandate) Date	o Dismissal	
24 Months (98%)		Military Leave Date	Military Return Date	o Initial Judgment Date	
		FTA/Body Attachment Issue Date	Body Attachment Service Date	o Judgment in Limited Divorce Cases if limited divorce is the only issue	
		No Service in Child Support cases after 90 days from filing	Service in Child Support cases or Dismissal if Service never effected		
		Collaborative Law Filing Date	Collaborative Law Conclusion Date		
Juvenile Delinquency	o First Appearance of Respondent, or	FTA/Bench Warrant Issue Date	Warrant Service Date	Disposition	1. Original Offense date to Filing
		Military Leave Date	Military Return Date	Jurisdiction Waived	
90 Days (98%)	o Entry of Appearance by Counsel	Incompetency Evaluation Order Date	Not Incompetent Finding Date	o Dismissal	2. Petition Filing date to first appearance
		Mistrial Date	Retrial after Mistrial Date	o Stet	
		Waiver to Adult Court Petition Filing Date	Waiver Denied/Granted Filing Date	o Probation	
		Interlocutory Appeal Filing Date	Interlocutory Appeal Decision (Mandate) Filing Date	o Facts Sustained	
		Pre-Disposition Treatment Program	Successful/Unsuccessful Completion of Pre-Disposition Treatment Program	o Facts Not Sustained	
				o NP	
				o NCR Finding	
				o Waiver Granted	
		PDI Ordered Date	Receipt of PDI Report Date		

[†] Notes: For URESA cases, use the filing date as both service and answer date. Also, use the consent date as the answer date when consents are filed with no answer. For Name Change cases, use the affidavit of publication service date or the show cause date as the answer date when no objection was filed.

Table 1. Definition of Time Standard Terms by Case Type, continued

Case Type	Case Time Start	Case Time Suspension		Case Time Stop	Additional Measures
		Suspend Begin	Suspend End		
CINA Shelter* 30 Days (100%)	Shelter Care Hearing Date	Military Leave Date	Military Return Date	o Adjudication	1. Adjudication to
	o Date of Shelter Care Hearing where Petition for Continued Shelter Care was granted o For UCS users, motion/document Shelter Granted filing date.			o Hearing Held Date o Case Dismissal Date	Disposition 2. Removal for Permanency Planning Hearing 3. Good Cause extension to <u>Adjudication</u> 4. Removal to Shelter Care Hearing
CINA Non-Shelter* 60 Days (100%)	Service of Parent(s), Guardian(s), and/ or Custodian(s) (First Service Entry Date), or Date of Shelter Care Hearing where Petition for Continued Shelter Care was Denied. (When a case started as Shelter Care, and Shelter Care Hearing was held but petition ultimately denied)	Military Leave Date	Military Return Date	o Adjudication o Hearing Held Date o Case Dismissal Date	1. Removal for Permanency Hearing 2. Extraordinary Cause to Adjudication
TPR 180 Days (100%)	TPR Petition Filing Date	Interlocutory Appeal Filing Date	Interlocutory Appeal Decision Date	TPR Final Order (Date of Docket Entry of the not the order signed or orally ordered)	1. TPR Petition filed to service of Show Cause Order 2. Service of Show Cause Order to Objection 3. TPR Granted to Guardianship Review <u>Hearing</u>
		Military Leave Date	Military Return Date		

* The distinction between CINA Shelter and Non-Shelter cases is made based on the child's status (sheltered vs. non-sheltered) at the time of Adjudicatory Hearing or Case Dismissal, and the case time will be measured from Case Start Time according to the appropriate Case Start Time defined above, not necessarily the actual case start date or the federally defined case start date (date of child removed from home).

PART I

APPENDIX “B”

IN THE COURT OF APPEALS OF MARYLAND

REVISED ADMINISTRATIVE ORDER FOR CONTINUANCES FOR CONFLICTING CASE
ASSIGNMENTS OR LEGISLATIVE DUTIES

WHEREAS, in 1972, an informal policy as to conflicts between case assignments in trial courts was published in the *Daily Record* following consideration by the Maryland Judicial Conference and then Conference of Circuit Administrative Judges and consultation with judges of the United States District Court for the District of Maryland; and

WHEREAS, this policy evolved into a uniform Statewide policy formalized by Administrative Orders issued on. October 21, 1977, June 2, 1978, October 9, 1980, and December 30, 1980; and

WHEREAS, at a meeting on March 14, 1995, the Executive Committee of the Maryland Judicial Conference resolved that, given the lapse of time since promulgation, the policy should be reviewed, revised to incorporate statutory requirements such as legislative postponements, and reissued to all Maryland Judges, to bar associations for dissemination to their members, and to others as appropriate; and

WHEREAS, it is appropriate to encompass appellate courts as well;

NOW, THEREFORE, I, Robert C. Murphy, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Constitution, do hereby order this 26th day of April, 1995, that the procedures for the resolution of conflicts in case assignment among appellate and trial courts in the State, as adopted by Administrative Orders of June 2, 1978, October 9, 1980, and December 30, 1980, are amended, effective May 15, 1995, to read as follows:

1. PURPOSE OF ADMINISTRATIVE ORDER - CERTAIN CONTINUANCES PROHIBITED.

This Administrative Order establishes policy regarding priorities between cases assigned for argument, hearing, or trial in one or more appellate or trial courts in the State on the same date. When there is a conflict in assignment, a continuance, postponement, or change in schedule may be made only in accordance with this Administrative Order.

This Administrative Order also states policy regarding continuances for legislative personnel and members of administrative agencies.

2. RESPONSIBILITIES OF COUNSEL.

a. When consulted as to the availability of dates for trial, counsel has the responsibility of assuring the absence of conflicting assignments on any date that counsel indicates is

available for trial.

b. If counsel accepts employment in a case in which a date or time for argument, hearing, or trial has already been set after counsel has been notified of a conflicting assignment for the same date or time, counsel should not expect to be granted a continuance.

c. If a conflict in assignment dates develops after representation has been accepted, counsel shall make every effort to obtain the presence of a partner or associate to act in one of the cases before a continuance is requested. Obviously, this provision is subject to obligations counsel may have to the client. However, a request for continuance because of conflicting cases should include a statement that it is not practical for a partner or associate to handle one of the conflicting cases.

3. PUBLICLY EMPLOYED LAWYERS.

A lawyer who holds public office or employment as an attorney (e. g., State's Attorney, Assistant State's Attorney, Public Defender, District Public Defender, County Attorney, or City Solicitor) and who is permitted to engage also in the private practice of law may not be granted a postponement or continuance of a case in which the lawyer appears in a public capacity, if there is an assignment conflict between that case and one in which the lawyer appears in a private capacity, except under the most extraordinary circumstances.

4. LEGISLATIVE PERSONNEL.

A continuance must be granted to an attorney of record who is a member or desk officer of the General Assembly exercising the privilege under Courts and Judicial Proceedings Article, § 6-402. In accepting employment, however, such attorney should consider the inconvenience to the public, bar and judicial system produced by excessive continuances.

5. RESPONSIBILITY OF THE COURT WHEN A CONTINUANCE IS REQUESTED AND GRANTED BECAUSE OF CONFLICTING CASE ASSIGNMENTS:

a. In a case in which counsel has accepted employment which creates a conflict in assignments, a judge may, in the judge's discretion and under extraordinary circumstances, grant a continuance. In the exercise of that discretion, the judge shall first assure that all parties, witnesses, and counsel in the case can be notified of the continuance sufficiently in advance of the trial date to avoid undue inconvenience; that the case has not been continued an unreasonable number of times prior thereto; and that the continuance would not otherwise impede the proper administration of justice.

b. It is the responsibility of the court to fix a new date

for the continued or postponed case when a continuance or postponement is granted.

6. PRIORITIES AS BETWEEN TRIAL COURTS.

With respect to conflicting hearings or trial dates between a circuit court for a county or Baltimore City, either division of the United States District Court for the District of Maryland, the United States Bankruptcy Court for the District of Maryland, or the Maryland District Court, priority shall be given to the case in accordance with the earliest date on which assignment for hearing or trial was made, except that, regardless of the date the assignment for hearing or trial was made, (1) if the provisions of the Federal Speedy Trial Act so require, priority shall be given to a criminal proceeding in the United States District Court; and (2) if the provisions of Maryland Rule 4-271 and/or Article 27, § 591 of the Code so require, priority shall be given to a criminal proceeding in a Maryland court, over a civil proceeding in the United States District Court or the United States Bankruptcy Court for the District of Maryland.

7. PRIORITIES BETWEEN APPELLATE AND TRIAL COURTS.

With respect to conflicting proceedings before the Court of Appeals, the Court of Special Appeals, or the 4th Circuit Court of Appeals and a trial court, the appellate proceeding shall be given priority over the trial court proceeding unless otherwise agreed by the appellate and trial courts as to particular proceedings.

8. CONFLICTS BETWEEN TRIAL COURTS AND ADMINISTRATIVE AGENCIES.

If counsel is a member of an administrative agency which has scheduled a meeting or hearing conflicting with an appellate or trial court proceeding in which the lawyer-member of the agency is also involved, the court proceeding has priority and the pendency of the administrative hearing is not a basis for granting a continuance.

Robert C. Murphy
Chief Judge

Filed: Alexander L. Cummings
Clerk
Court of Appeals

PART II CIVIL NON-DOMESTIC

1. General Information

1.1 Types of Cases

This Case management Plan applies to all civil non-domestic matters, including, but not limited to the following types of cases:

- Tort or contract actions
- Non-family equity actions
- Worker's Compensation appeals
- Professional Malpractice
- Complex Litigation
- Condemnations
- Boundary Disputes

The following cases are also subject to the Civil Law Differentiated Case Management Plan, but because of the nature or statutory requirements of those cases, they are forwarded to the Assignment Clerk when at issue for assignment in accordance with the appropriate Maryland Rule.

- Administrative Appeals
- Certiorari in Circuit Court
- Confessed Judgment
- District Court Appeals (de novo and record appeals)
- Foreclosures
- Forfeitures
- Habeas Corpus
- Inmate Grievances
- Landlord Tenant
- Liquor Board Appeals
- Mechanics Liens
- Orphans Court Appeals

Business Technology cases are to be referred to one of the designated Business Technology judges in the circuit.

1.2 Pleadings

1.2.1 Civil Case Information Report

Pursuant to Maryland 2-111, a Civil Case Information Report (CCIR) shall be filed with all original pleadings in the case, and a copy shall be served on the defendant(s). The CCIR shall be filed in all non-family law civil matters with the exception of the case types noted in the "Committee Note" accompanying Rule 2-111.

1.2.2 Responsive Pleadings

A CCIR shall be filed with the responsive pleadings in accordance with Rule 2-323(h). If no CCIR is filed by the opposing attorney or party, the Court may proceed without the Defendant's information.

Once the first answer is filed by any defendant, the case file is forwarded by the Office of the Clerk to the Assignment Office for assignment of a scheduling conference, unless exempted in 1.1 above. The Court orders a scheduling conference by having the assignment clerk issue an assignment notice. The Assignment Office shall send notice of the date of the scheduling conference to all attorneys or unrepresented parties. This scheduling conference shall be held in approximately 30 days.

In accordance with Maryland Rule 2-507(b), in any action against any defendant who has not been served or over whom the Court has not otherwise acquired jurisdiction, a Notification of Contemplated Dismissal shall be served by the Clerk on all parties at the expiration of 120 days from the issuance of original process directed to that defendant.

2. Scheduling Conferences

2.1 The Scheduling Conference

2.1.1 Who Shall Attend

Scheduling Conferences are held before a judge designated by the Administrative Judge to hear these matters. Attendance at scheduling conference is required of all attorneys whose appearance is entered in the case. If a party is not represented by counsel, the party must attend. The Court may hold a scheduling conference in chambers, in open court or by telephone or other electronic means. The conference will be conducted in accordance with Maryland Rule 2-504.1.

2.1.2 Content of Conferences

A scheduling conference will include discussion of any matter relevant to management of the case, including assignment to a procedural track, establishment of dates for the designation of experts and for completion of discovery, deadlines for filing motions, notices concerning computer-generated evidence and other pretrial procedures, establishment of a settlement conference date, issuance of a Scheduling Order and other matters referred to in Rules 2-504 through 2-504.2. Authorization may be given for an attorney to participate in a scheduling conference by telephone in accordance with paragraph 2.1.3 of this plan. At the conclusion of the conference the Court will issue a Scheduling Order setting forth matters decided which control the subsequent course of the action. The dates set in the Scheduling Order are strictly enforced and subject to modification by the Court only to prevent manifest injustice, in order to allow for timely settlement or a trial if needed.

(A) Discovery Deadlines. During the scheduling conference the judge will ask counsel how long he/she will need for discovery. Every effort will be made by the Scheduling Judge to keep discovery time to the shortest possible time so as to expedite the case and achieve disposition of the case within the Maryland standards. Attorneys who request more than 6 months for discovery will need to present good cause for the Scheduling Judge to allow extra discovery time. Discovery deadlines will be set and subsequent event dates scheduled correspondingly.

(B) Amendments. The judge conducting the scheduling conference shall also set a date for the filing of any amendments to the pleadings.

(C) Disclosure of Experts. The deadline for disclosure of experts for both plaintiff and defendant shall be set. This deadline must be sufficiently prior to the discovery deadline to allow for depositions to be taken before the close of discovery.

(D) Motions Deadline. The judge will establish the deadline for the filing of dispositive motions and motions in Limine. Deadline for dispositive motions shall be set at least six weeks prior to the settlement conference so as to have such motions heard before settlement conference is held.

(E) Settlement Conference Date. Finally, the judge will set the case in for a settlement conference. Counsel shall comply with Rule 2-504.2 in filing their pretrial statement five days prior to settlement conference.

(F) Trial Date. In most instances no trial date shall be set at the scheduling conference. Rather, the case will be managed in such a manner as to facilitate settlement prior to or at the time of the Settlement Conference. A merits hearing will be scheduled only if and when a meaningful settlement conference fails to resolve all pending issues in the case. The purpose of this policy is to ensure that those cases scheduled for trial cannot be resolved by ADR methods and that any case scheduled for trial is actually ready to go to trial. This policy is designed to facilitate settlement as early on in the case as possible to spare the parties unnecessary expense and delay. By setting a date for the merits hearing later in the case, the Court can more accurately predict the number of cases to be heard and the trial taking place on the scheduled day is far more likely. The Court will necessarily, in order to implement this policy, strictly enforce the pre-trial scheduling order.

2.1.3 Telephone Participation in Scheduling Conference

(A) Definitions: In this paragraph (i) “attorney” means an attorney who has entered an appearance in an action to be considered at a scheduling or pretrial conference or a member of the attorney’s staff who has full authority to make decisions with respect to the conduct of the action and, in particular, all matters which may be discussed at a scheduling conference. Attorneys will be held to the same standard of time performance

for a scheduling order created by participation of staff as for one created with the attorney's personal participation.

(B) When Authorized. An attorney may elect to participate in a scheduling conference by telephone, unless such participation is specifically not permitted by the Administrative Judge in that particular case. Approval of other attorneys and parties is not required. An unrepresented party is not authorized to participate by telephone at any time.

(C) Effect. Attorneys participating by telephone will be considered for all purposes to be in the presence of the Court in the room where the Court is conducting scheduling conferences. An attorney who is not physically present or participating by telephone at the time stated in the Notice of Scheduling Conference will be considered absent and subject to all decisions made at the scheduling conference and/or to appropriate sanctions for failure to appear.

(D) Arrangements for Participation. Arrangements for telephone participation must be made by the attorney with the Court at least five (5) Court days before the date of the conference. Failure to arrange for telephone participation within the time and in the manner prescribed will not constitute reason for postponement or continuance of a conference.

3. Alternative Dispute Resolution

It is the policy of this Court to encourage the use of alternative dispute resolution in accordance with Title 17 of the Maryland Rules of Procedure.

4. Settlement Conference

4.1 Who Shall Attend

4.1.1 Counsel for each party is required to be physically present for the settlement conference. No participation by telephone is permitted.

4.1.2 Parties must attend, whether or not they are represented by an attorney.

4.1.3 Insurance company representatives *with authority to negotiate a settlement* must attend unless an exception is requested and is granted by the Court. If exception is granted, the representative must be available by telephone.

Failure to attend or to send a person with authority to negotiate a reasonable settlement may result in sanctions being imposed by the Court.

4.2 Preparation for Settlement Conference

Counsel is expected to have completed all discovery and taken all depositions (with the exception of a deposition of expert witness to be used at trial). Pretrial statements shall have been *filed* at least five (5) days prior to the settlement conference in accordance with Rule 2-504.2. Bringing the pretrial statement to the settlement conference rather than filing it five days prior is not acceptable, as the settlement judge will not have time to review the statement prior to the beginning of the conference. Failure to comply with this requirement may result in a second settlement conference having to be set, no trial date being assigned and/or sanctions imposed by the Court. Counsel is expected to have attempted to resolve the case prior to attendance at settlement conference. Remaining issues unresolved should be clearly identified. Counsel must be prepared at the time of the settlement conference to meaningfully discuss settlement. Counsel shall bring trial calendars to settlement so that if a settlement does not occur, a trial date may be assigned. Attorneys are expected to have conferred with each other regarding amount of trial time which will be required and number of jurors needed.

4.2.1 Failure of Attorneys to Properly Prepare for Settlement Conference

In order to have a meaningful settlement conference, all counsel must be prepared in accordance with this plan and the Scheduling Order given at the Scheduling Conference. Failure to properly prepare may result in a trial date not being assigned, a second settlement conference being set, and/or sanctions being imposed by the Court.

4.2.2 Failure of Attorney to Attend Settlement Conference

If an attorney for a party in a case does not appear at settlement conference, which prevents settlement discussions, an order may be passed requiring payment of expenses to attorney(s) who appear.

5. Merits Trial

5.1 Setting a Trial Date

Trial dates on the merits are set in accordance with the procedures set forth in sections 2.1.2, 2.1.3, 4.2 and 4.2.1 above.

5.2 Voir Dire and Jury Instructions

Counsel shall file voir dire questions, which shall contain a witness list at least 48 business hours before trial. Jury instructions are also requested at that time.

5.3 Video or Audio Depositions to be Used at Trial

Any party intending to use any deposition recorded by videotape or audiotape shall comply with Rule 2-416.

5.4 Day of Trial

Counsel shall be in the courtroom at 8:30 a.m. on the first day of trial in order to have any documentary evidence that shall be proffered into evidence pre-marked by the courtroom clerk and for any outstanding preliminary matters to be decided.

6. Postponements

6.1 Requests for Postponement of the Scheduling Conference

Requests for re-setting of the scheduling conference will be reasonably granted if requested in a timely manner, and an effort made to reset the matter at the next available scheduling conference date. Counsel or parties wishing to reset a scheduling conference must file their request pursuant to Maryland Rule 2-508.

6.2 Requests for Change of Trial, Hearing or Other Conference Date

As one of the goals of this Case Management Plan is timely disposition of cases in compliance with the Time Standards set by the Judicial Council, a strict postponement policy will be followed. A party who desires a change of the time of any trial, hearing or conference must (1) obtain several possible alternate times from the Assignment Clerk and, within 5 days thereafter, (2) attempt to secure the agreement of all other parties to one of those alternate times, (3) advise the Assignment Clerk by phone immediately when a date is secured which is agreeable to all parties. (Dates will only be held by the Assignment Clerk for 5 days), and (4) file a written request for change to one of those alternate times by motion pursuant to Maryland Rule 2-508. A strict postponement policy is enforced for these matters since parties and counsel will have had the opportunity to provide input on scheduling at the time of the scheduling conference and settlement conference. Cases will not be postponed merely by the consent of the parties or because discovery has not been completed. Whether or not the parties have discussed and/or agreed upon an alternate date, any existing notice or scheduling order remains in full effect until the changes have been approved in writing by the Court.

If a postponement is granted, all other provisions of the Pre-Trial Scheduling Order shall remain in effect.

7. Motions

7.1 Procedure

All motions shall be forwarded to the judge for consideration after the time has expired for response or after a response has been filed, whichever first occurs. The judge shall direct the Assignment Clerk to schedule a motion for hearing, if appropriate, in accordance with the applicable rules of procedure.

7.2 Time Allowed for Motions Hearings

Unless counsel notify the Assignment Clerk or Judge of additional time requirements, all motions hearings are presumed to take thirty (30) minutes, and will be limited to that amount of time.

8. Sanctions

The Circuit Court for Cecil County will take appropriate steps to ensure compliance with all Scheduling Orders and other orders issued in accordance with this Civil Law Case Management Plan. If an attorney and/or party fails to comply with the Scheduling Order, or fails to participate in alternative dispute resolution or other proceedings as ordered without having first obtained a postponement or other waiver of this Court, a Show Cause Order may be issued. A Show Cause Hearing may then be held before the Administrative Judge or his/her designee to determine whether sanctions should be imposed on the offending party or counsel. Monetary or other sanctions may be imposed on any attorney or party who fails to comply with an Order of this Court issued in accordance with the Civil Case Management Plan.

PART III FAMILY LAW

1. General Information

1.1 Types of Cases

This Family Law Differentiated Case Management Plan outlines policies and procedures for the management of family law cases at the Circuit Court for Cecil County. This includes but is not limited to the following types of cases:

- alimony
- annulment
- child support
- custody
- divorce
- guardianship over person only
- visitation
- paternity
- post-judgment modification of custody/visitation
- post-judgment modification of alimony
- post-judgment modification of child support

1.1.1. Assignment of Master

The Domestic Relations Master of this Court is assigned to hear all of the above cases and others by Special Assignment by the Administrative Judge.

1.1.2. Relationship Between Custody and Support (See also Part IV Child Support)

The issues of custody and support are not separable. In all custody cases, when custody is determined or modified, support shall be established or modified. Parties and their attorneys litigating custody shall be prepared to provide the Court with the necessary financial data for a Maryland Child Support Guidelines calculation. Where the Child Support Enforcement Administration litigates support, the CSE shall communicate with any private counsel in the case on the issue of custody and both counsel shall be present at the hearing.

1.2 Other Family Law Matters

1.2.1 Domestic Violence Cases

Domestic Violence cases originally before the Circuit Court are scheduled in accordance with Md. Ann. Code, Family Law §4-506(ii). Appeals from rulings of the District Court in domestic violence matters are scheduled in accordance with Md. Ann. Code Family Law §4-507.

1.3 Pleadings

1.3.1 Domestic Case Information Report (DCIR)

Pursuant to Maryland Rule 2-111, a Domestic Case Information Report (DCIR) shall be filed with all original pleadings in the case, and a copy shall be served on the defendant/respondent. The DCIR shall be filed in all cases subject to the Family Law Differentiated Case Management Plan. When any new or additional relief is sought subsequent to the filing of the original complaint or petition, a DCIR shall be filed with the pleading or paper seeking the relief.

1.3.2 Responsive Pleadings

A DCIR should be filed with the responsive pleadings. If no DCIR is filed by the opposing attorney or party, agreement with the plaintiff's DCIR shall be presumed, pursuant to Md. Rule 2-323(h).

2. Scheduling Conference

2.1 Setting of Scheduling Conference

Once a case is at issue, i.e., once the first responsive pleading has been filed or the response time has run with no response having been filed, the case is forwarded to the Domestic Relations Master. The Master will generally schedule contested cases for a Domestic Scheduling Conference within 30 to 45 days of when the case is at issue. An Expedited Status/Scheduling Conference may be scheduled sooner than 30 days.

The Master may set a deadline by which the request for a default order may be filed, and recommend dismissal for non-compliance with said deadline.

2.2 The Scheduling Conference

Domestic Scheduling Conferences are generally held before a Master. At the Scheduling Conference, the Master will attempt to assist the parties in reaching an agreement on all contested matters. If an agreement can be reached, the Master may place the agreement on the record, and recommend a final Order be issued in the case. If it is a divorce matter and the necessary witnesses are present, brief testimony may be taken on the grounds for divorce and a report and recommendation issued. The Master may also direct one of the attorneys to prepare and submit a Judgment of Divorce including any applicable consent agreement. The Master shall direct an attorney to submit the proposed Judgment within a set number of days.

Pro Se parties will be informed of the possibility of obtaining a default order, if appropriate. They will be given instructions to either obtain forms from the Clerk of the Circuit Court, attend the Family Law Assistance Clinic or both.

If it is clear that there remain contested issues, the Master will identify those issues and complete a Scheduling Order setting in discovery and filing deadlines and schedule a settlement conference. This Order is presented to a judge for review and signature and sent to all parties and attorneys by the Clerk of Court.

The Master will also identify and recommend any preliminary orders required in the matter. Preliminary orders include the following:

- order to attend parenting seminar
- order for custody/visitation ADR
- order for property ADR, if agreed
- other alternative dispute resolution orders
- orders appointing counsel for a minor child or party
- order for home study/custody investigation
- order for mental health evaluation(s)
- order for pendente lite hearing
- order for substance abuse assessment
- order for monitored transfer and/or supervised visitation
- any other investigations or orders the Master feels may be necessary to expedite the case.

In most cases, no contested merits hearing will be scheduled at this time. Rather, the case will be managed in such a way as to facilitate settlement prior to or at the time of the settlement conference. A merits hearing will be scheduled only if and when the settlement conference fails to resolve all pending issues in the case. The purpose of this policy is to ensure that only those cases are scheduled for trial which will actually go to trial. In designing the Family Law Differentiated Case Management Plan, the Circuit Court for Cecil County is attempting to facilitate settlement as early on in the case as possible to spare the parties unnecessary expense and delay. By setting a date for the merits hearing later in the case, the Court can more accurately predict the number of cases to be heard and counsel and parties can be more confident that their case will proceed immediately to trial on the scheduled day.

At the time of the Scheduling Conference, the Master will use her/his discretion to determine the appropriate scheduling order to be recommended for the case.

Custody Evaluations, Investigator Services, GAL Parent Coordination

The costs for the above services shall be paid directly to the provider within 30 days of the Court Order by cash, money order, or certified check. Personal checks or credit cards may be accepted by prior arrangement with the provider.

Requests for Investigations and Evaluations

Motions for mental health evaluations, DSS investigations or other preliminary orders filed *after the Scheduling Conference*, if one was held, will be denied unless there is substantially new information or developments which have necessitated the requested relief.

2.2.1 Discovery Deadlines

During the Scheduling Conference, the Master will set discovery deadlines considering both the requests of the parties and the necessity to expedite the case in order to complete the case within the Maryland Standards. Subsequent event dates will be scheduled correspondingly. Pursuant to the Maryland Rules, all discovery is continuing in nature and the parties have a duty to update their discovery responses to stay current to the date of trial.

2.3 The Scheduling Order

A single, uniform Scheduling Order shall be used for most family law cases. At the Scheduling Conference, the Master will also discuss with counsel or parties whether other preliminary orders might be appropriate in the case. Counsel shall file any such preliminary motions, e.g., motions for child counsel, for a mental health evaluation, for home study/custody investigations, etc., prior to the Scheduling Conference so that these issues can be discussed intelligently by both sides. If one party requests a preliminary order and the other party objects, the Master may hear brief argument on the issue and render a decision.

2.3.1 Resolution Services Inc. and/or any other provider of evaluation, ADR, or other services shall receive a copy of the Scheduling Order when signed.

2.3.2 Parenting Seminars

In divorce actions or other actions between two natural parents where custody or visitation is at issue, the Court will order the parties to attend parenting education.

Children's Psycho-Educational Group

In divorce actions, or other actions between two parents where custody or visitation is at issue and there is high conflict, the Court may order the parties' children to attend the psycho-educational group, or the parties may voluntarily register their children for the psycho-educational group.

3. Alternative Dispute Resolution

After determining what issues are contested in each case, the Master will determine whether to recommend the judge order participation in an alternative dispute resolution program.

3.1 Custody/Visitation Alternative Dispute Resolution

Parties involved in contested custody and/or visitation matters where there are no allegations of abuse will be ordered to attend mediation, neutral case evaluation, or other ADR. The actual dates of ADR will not be ordered at the Scheduling Conference. Parties will instead be ordered to contact the Family Services Coordinator, who will schedule the date(s) for ADR.

When ADR is ordered, the Court will mail a copy of the Scheduling Order and Order for ADR to the party or entity providing ADR services.

The ADR provider will attempt to facilitate an agreement between the parties. If the parties are unable to reach an agreement, the ADR provider may request that the Court extend the ADR order to include more sessions. Pursuant to Md. Rule 9-205(c), the Court may order up to two additional mediation sessions. The parties may also voluntarily continue with further ADR at their mutual election. Any additional costs of ADR will be paid for by the parties.

Pursuant to Md. Rule 9-205(c)(2), the parties may extend the scope of ADR beyond the issues of custody and visitation, only if both they and their attorneys agree to do so in writing. The ADR provider shall submit a consent form to that effect with the signatures of both parties and their counsel at the time a completed written agreement is forwarded to the Court.

3.1.1 Costs

The established fees for court-certified alternative dispute resolution providers in Cecil County shall be provided to the parties by the Family Services Coordinator. Each party must bring his/her total payment to the first session. Payment is to be by cash, money order or certified check payable to the provider. Personal checks and credit cards may be accepted by prior arrangement with the provider. Each party must pay for any session he or she misses. If a party feels she/he is unable to afford the cost of ADR, he or she may apply for a waiver of the fee by filing a Motion for Waiver of Fee of ADR services available from the Family Services Coordinator. Provisions have been made through the Family Services Program to pay the waived fee for a party who is unable to afford the cost.

3.2 Property/Financial ADR

Parties whose case involves contested property issues may be ordered to participate in the Property ADR Program, and will be ordered to complete ADR of all property issues by the time of the Settlement Conference.

3.2.1 Objections to Property ADR

The Order referring the case to Property ADR shall specify that the parties have thirty (30) days within which to: 1) object to the referral; 2) offer an alternative proposal; and 3) agree on a person to conduct the proceeding. If the parties wish to object, they must file a written request stating their objection.

If one or more party files a timely objection to the referral, the Court shall attempt to identify a property ADR provider mutually agreeable to the parties. If a party objects to participation in the alternative dispute resolution process, the Court shall vacate the Order pursuant to Maryland Rule 17-103(c)(3). A party who fails to object within thirty (30) days shall be bound by the Order referring the case to property ADR.

3.2.2 Property Agreements

When the parties have been able to reach an agreement on some or all issues, counsel will prepare a written draft of the agreement for signature. In the alternative, the agreement may be incorporated into a Consent Order resolving all outstanding issues in the case and presented to the Court at or before the Settlement Conference.

3.2.3 Costs

The established fee for court-certified ADR in Cecil County shall be provided to the parties by the Family Services Coordinator. Each party must bring his/her total payment to the first session. Payment is to be by cash, money order or certified check payable to the ADR provider. Personal checks and credit card payments may be accepted by prior arrangement with the provider. Each party must pay for any session he or she misses.

4. Settlement Conferences

A Settlement Conference will be scheduled for all matters at the time of the initial Scheduling Conference, unless, in the Master's judgment, a settlement will be utterly, and undisputedly impossible, in which case a trial date will be scheduled.

4.1 Who Shall Attend

All parties and counsel are required to attend the Settlement Conference. Failure to attend may result in sanctions being imposed by the Court.

4.2 Preparation for Settlement Conference

Prior to Settlement Conference, the parties MUST:

- Have completed all discovery

- Have identified all experts
- Have attended the required court ordered classes and or completed all court ordered evaluations and services, if ordered to do so
- Have taken all depositions (with the exception of a deposition of expert witness to be used at trial)
- Have filed their Pretrial statements at least five (5) days prior to the Settlement Conference in accordance with Rule 2-504.2
- Have filed a Joint Marital and Non-Marital Property Statement pursuant to Md. Rule 9-206, if there are any property issues
- Have completed a Financial Statement pursuant to Md. Rule 9-203(f) if not yet filed
- Have exchanged income information and documents verifying that income
- Have prepared a Child Support Guidelines Worksheet, if child support is at issue

Any vendor providing evaluation or other forensic services must complete its report and provide copies to the parties at least 5 days prior to the Settlement Conference.

4.2.1 Failure of Attorneys to Properly Prepare for Settlement Conference

In order to have a meaningful settlement conference, all counsel must be prepared in accordance with this plan and the Scheduling Order prepared at the Scheduling Conference. Failure to properly prepare may result in a trial date not being assigned, a second settlement conference being set, and/or sanctions imposed by the Court.

4.2.2 Failure of Attorney to Attend Settlement Conference

If an attorney for a party in a case does not appear at settlement conference, thereby preventing settlement discussions, an order may be passed requiring the attorney who failed to appear to make payment of expenses to attorney(s) who appear.

4.3 Settlement Conference Procedure

The Settlement Conference, which shall be conducted by a specially assigned judge, or master, will meet with counsel and/or the parties in an attempt to facilitate a settlement in the case. All parties and their counsel must be prepared to discuss all aspects of their case in anticipation of a possible settlement. If settlement of all issues does not occur, the settlement judge or master will attempt to narrow the areas at issue and a trial date on the merits will be assigned.

5. Merits Hearings

In most cases, merits hearings will be scheduled at the time of the Settlement Conference, if the parties have been unable to reach agreement on all issues to date. Counsel and parties must be ready to proceed at the time the case is called.

5.1 Oral Argument on Immediate Orders

Where, pursuant to Rule 9-208(h)(2), the Master recommends that an order be entered immediately, the Court “shall afford the parties an opportunity for oral argument,” as provided in the Rule. This is not a hearing on exceptions but, as provided in the Rule, an order entered pursuant to 9.208(h)(2) is subject to a later determination by the Court on exceptions.

5.2 Hearings on Exceptions

Where a party files exceptions to the Master’s findings and recommendations, pursuant to Maryland Rule 9-208(f) the Court will schedule and hold a hearing on the exceptions within 60 days pursuant to Rule 9-208(i). This is not oral argument on an immediate order.

6. Postponements

6.1 Requests for Postponement of the Scheduling Conference

Requests for re-setting of the scheduling conference will be reasonably granted if requested in a timely manner, and an effort made to reset the matter at the next available scheduling conference date. Counsel or parties wishing to reset a scheduling conference must file their request pursuant to Maryland Rule 2-508.

6.2 Requests for Change of Trial, Hearing or Other Conference Date

As one of the goals of this Case Management Plan is timely disposition of cases in compliance with the Time Standards set by the Judicial Council, a strict postponement policy will be followed. A party who desires a change of the time of any trial, hearing or conference must (1) obtain several possible alternate times from the Assignment Clerk and, within 5 days thereafter, (2) attempt to secure the agreement of all other parties to one of those alternate times, (3) advise the Assignment Clerk by phone immediately when a date is secured which is agreeable to all parties. (Dates will only be held by the Assignment Clerk for 5 days), and (4) file a written request for change to one of those alternate times by motion pursuant to Maryland Rule 2-508. A strict postponement policy is enforced for these matters since parties and counsel will have had the opportunity to provide input on scheduling at the time of the scheduling conference and settlement conference. Cases will not be postponed merely by the consent of the parties or because discovery has not been completed. Whether or not the parties have discussed and/or agreed upon an alternate date, any existing notice or scheduling order remains in full effect until the changes have been approved in writing by the Court.

If a postponement is granted, all other provisions of the Pre-Trial Scheduling Order shall remain in effect.

7. Pendente Lite Relief

Requests for pendente lite relief may be made by motion or in original pleadings. Normally pendente lite hearings will be set, if necessary, at the time of the Scheduling Conference. If a need for pendente lite hearing arises after the Scheduling Conference, the party seeking a hearing must do so by motion. Once the time has passed for a response, the motion will be considered by a judge and scheduled by the Assignment Clerk, if the request for hearing is granted. Pendente lite matters are generally heard by the Domestic Relations Master.

Pendente lite hearings may be limited in time, if deemed appropriate by the Master at the Scheduling Conference. Pursuant to Maryland Rule 16-201(d), the matter can be reset for a lengthier hearing if notice is provided by the parties prior to the scheduled date. If a lengthier hearing is required, the matter will be reset appropriately. Requests for “Expedited Pendente Lite Hearings” will be handled as described below in Paragraph 8.3.

8. Expedited Relief (See also General Provisions 2)

8.1 Ex Parte Relief

Requests for emergency ex parte relief will be reviewed by a judge. Requests for such relief will be screened to determine whether they meet the notice requirements and standard for emergency relief detailed below. The Administrative Judge will make a final ruling on the request.

Requests for ex parte relief must be filed in accordance with Maryland Rule 1-351.

If an application for ex parte relief relies upon facts not contained in the record or presented in live testimony, the application must be “based on a verified affidavit.” *Magness v. Magness*, 79 Md. App. 668, appeal dismissed, 317 Md. 641 (1989). In accordance with *Magness* and other case law, the affiants must certify their personal knowledge of facts upon which they rely to support their claim for relief.

8.2 Standard for Immediate Ex Parte Relief

Requests for immediate ex parte relief will be denied unless there is a sufficient showing that there is an imminent risk of substantial and immediate and irreparable harm to a party or minor child, or unless there is a sufficient showing that there will be an imminent loss of jurisdiction or removal of a child from the State.

Purely speculative evidence of harm will not be considered sufficient for ex parte relief. See *Magness*, 79 Md. App. 668.

10. Sanctions

The Circuit Court for Cecil County will take appropriate steps to assure compliance with all Scheduling Orders and other Orders issued by this Court in accordance with this Family Law DCM Plan. If an attorney and/or party fail to comply with a Scheduling Order, or fails to appear for ADR, hearings or other proceedings as ordered without having first obtained a postponement or other waiver of this Court, a Show Cause Order may be issued. A Show Cause Hearing may then be held before the Administrative Judge or his/her designee as to why sanctions should not be imposed on the offending person. Only the party (and counsel) against whom the Show Cause Order was issued need appear for this hearing. Monetary or other sanctions may be imposed on any attorney or party who fails to comply with an Order of this Court issued in accordance with the Family Law DCM Plan.

PART IV CHILD SUPPORT

1. General Information

Civil cases involving child support issues may be heard by either a judge or a domestic relations master, but usually will be heard by the Master. Criminal cases involving child support issues may be heard by a judge or a jury.

In all custody cases, when custody is determined or modified, support shall be established or modified. Parties and their attorneys litigating custody shall be prepared to provide the Court with the necessary financial data for a Maryland Child Support Guidelines calculation. The issues of custody and support are not separable. Where the Child Support Enforcement Administration litigates the support, the CSE attorney shall communicate with any private counsel in the case on the issue of custody and both counsel shall be present at the hearing.

An essential goal of this plan is the timely disposition of cases in compliance with the Time Standards set by the Court of Appeals.

2. Establishment of Paternity Establishment and Modification of a Child Support Award

At regular intervals a docket is devoted to cases involving the establishment of paternity, the establishment of a child support award or the modification of an existing child support award. These cases may be initiated by the parties involved or the Child Support Enforcement Administration.

The establishment of paternity and the establishment of a child support award both require the filing of a complaint. When a complaint is filed, the clerk issues a summons for service upon the defendant. The Defendant shall answer within the period specified in MD Rule 2-321.

The modification of a child support award requires the filing of a motion pursuant to Family Law §12-104. The defendant is required to respond as indicated in MD Rule 2-311.

3. Civil and Criminal Enforcement of Child Support Awards

At regular intervals a docket is devoted to cases involving the civil and criminal enforcement of child support awards. Civil enforcement may be initiated by either party or the Child Support Enforcement Administration. Criminal enforcement shall only be initiated by the State's Attorney's Office (SAO).

Civil enforcement is initiated by a filing pursuant to MD Rule 15-206. Cases involving civil enforcement may be heard by either a judge or a domestic relations master.

Criminal cases concerning the charge of constructive criminal contempt of court are initiated by filing pursuant to MD Rule 15-205. Criminal cases involving an alleged violation of Family Law Article §10-203 are initiated by a filing pursuant to MD Rule 4-201. Criminal cases, at the defendant's election, may be tried before a judge or a jury.

4. Postponements

The Circuit Court for Cecil County follows a strict postponement policy. Cases are postponed in the best interest of justice or upon the presentation of a compelling reason that compromises the fundamental fairness of the trial.

If a postponement is granted, the case shall be set for the next regular support day or, if circumstances require, another specified date.

5. Review Hearings and Reopening Closed Cases

See Section 1.5 of this Plan.

PART V JUVENILE

1. General Information

Juvenile matters follow the procedures dictated by the Maryland Code and Maryland Rules. Timely disposition of all juvenile cases which is in compliance with the Time Standards set by the Court of Appeals is a goal of this Plan. Cases are generally heard on the regular Juvenile Days. Matters which may require lengthy hearing may be specially set at the discretion of the Juvenile Judge.

2. Emergency Matters

Detention hearings and other emergency matters are handled by the Juvenile Court Judge as needed on an expedited basis.

2.1 Detention and Shelter Care Hearings

The Court shall hold a shelter care or detention hearing on the same day the petition for continued detention or shelter care is filed, or, if necessary, the next business day.

3. Juvenile Delinquency

Juvenile delinquency cases are initiated by the State's Attorney. The State's Attorney's Office files the petition with the Juvenile Clerk of the Court, and immediately schedules arraignments, adjudicatory hearings, and disposition hearings.

3.1 Scheduling hearings

- Adjudicatory hearings shall be held within 60 days unless a waiver petition is filed, in which case the adjudicatory hearing shall be held within 30 days after the Court's decision to retain jurisdiction. If the respondent is in detention or shelter care, the adjudicatory hearing shall be held within 30 days from the date on which the Court ordered detention or shelter care. If the adjudicatory hearing is not held within 30 days, the respondent shall be released on conditions imposed by the Court pending an adjudicatory hearing. See Rule 11-114.
- Disposition hearings shall be held within 30 days of the adjudicatory hearing

4. CINA

4.1 Permanency Planning Hearings

Permanency Planning Hearings shall be held as required by CJ 3-823, after a child is placed in out-of-home care including review, guardianship, and TPR hearings. Deadlines in Section 3-823 include but are not limited to the following:

1. Permanency planning hearing within 11 months of child entering out-of-home placement
2. Review hearing at least every 6 months while the child is in care

Each subsequent hearing shall be scheduled in open court upon conclusion of the previous hearing, and no 3-823 hearing shall be concluded until the next hearing is scheduled and parties and counsel notified.

4.1.2 Pursuant to Family Law, Section 5-319, a hearing shall occur on a guardianship/TPR petition within 165 days after the petition is filed and the date for the said hearing shall be set when the petition is filed and noted on the petition when served on the parties.

4.2 Courts Article

This Case Management Plan will comply fully with Courts Article, Sections 3-801 et seq., which control all aspects of CINA Proceedings, especially including deadlines for certain actions.

4.3 Shelter Care Hearings

A shelter care hearing shall be held not later than the next day the Court is in session where a child has been placed in emergency shelter care and the local Department of Social Services files a petition for continued shelter care.

4.4 Adjudicatory Hearings

Pursuant to Rule 11-114 an adjudicatory hearing shall be held within 60 days after service of the Petition on the Respondents, unless the respondent child is in shelter care, in which case, the adjudicatory hearing shall be held within 30 days from the date on which the Court ordered continued shelter care. The dates for adjudicatory and disposition hearings in CINA cases shall be set when the Petition is issued and noted on the Petition.

4.5 Disposition Hearings

Pursuant to Courts Article, Section 3-819, a Disposition Hearing shall be held on the same day as the Adjudicatory Hearing or, upon good cause shown, within 30 days thereafter.

5. Postponements

Requests for postponement will only be granted when compelling reasons are presented which affect the fundamental fairness of the trial and the postponement is in the best interest of justice. Postponements will generally not be granted taking the case outside the mandate of Courts Article, Section 3-801 et seq. and/or Rule 11-101 et seq.

PART VI CRIMINAL

1. General Information

From the commencement of a criminal prosecution to its conclusion by adjudication or otherwise, any elapsed time other than reasonably required for pleadings, discovery, and Court events is unacceptable and should be eliminated. To enable just and efficient resolution of cases, the Circuit Court for Cecil County, not counsel or the litigants, shall control the pace of litigation. Counsel for the State and the defendant have a responsibility as officers of the Court to eliminate unnecessary delay consistent with their ethical obligations to their clients.

The goal of this plan is to comply with accepted Time Standards, to wit: 98% of all cases are completed within 180 days of the defendant's first appearance in the Circuit Court or the filing of an entry of appearance by counsel.

2. Initial Appearance/Arraignment/Appearance of Counsel

Initial Appearances/Arraignments in indictment cases are scheduled by the Assignment Office in accordance with Maryland Rule 4-213 and this plan.

2.1 When a defendant appears, unrepresented, in the District Court and elects a jury trial or files an appeal he/she will be served by the District Court Clerk with a notice for an initial appearance/arraignment in the Circuit Court on the next Court day (excluding holidays) which is seven (7) calendar days after the appearance in the District Court. The defendant must appear for initial appearance/arraignment on that date or a warrant will be issued for his/her arrest.

When defendant appears with counsel in the District Court and elects a jury trial or files an appeal, he/she will be served by the District Court clerk with a notice for a Pre-Trial Conference in Circuit Court on the next Thursday, excluding holidays, which is seven (7) calendar days after the appearance in the District Court. The defendant must appear for the Pre-Trial Conference on that date or a warrant will be issued for his/her arrest.

2.2 Except for the most compelling of ethical reasons, in criminal cases, appearances of counsel will not be stricken without a substitution of counsel or affirmative, voluntary, intelligent waiver of counsel by defendant.

3. Scheduling Motions, Pre-trials and Trials

After an initial appearance is held, or after the entry of appearance of counsel for the defendant, the case is forwarded to the Assignment Office for scheduling in accordance with Maryland Rule 4-271. The Assignment Office consults with the State's Attorney's

Office and with defense counsel and sets dates for trial, for motions if necessary, and for pre-trial. Counsel is required to inform the Assignment Office if any trial will take longer than two days. Any motion requiring a hearing is also set with the input of both counsel. Motions must be heard before the date of the pre-trial, except in jury prayer or appeal cases from the District Court.

In jury prayers and appeals cases from the District Court where the Defendant is unrepresented, at the arraignment/initial appearance, the Clerk shall serve on the defendant a notice to appear for a pre-trial conference which shall be scheduled for the next calendar Thursday occurring 14 days after the arraignment/initial appearance, provided, however, that if the said Thursday is a holiday, the pre-trial conference shall be set for the next calendar Wednesday occurring 13 days after the arraignment/initial appearance and the notice shall so state. If the defendant fails to appear at the pre-trial conference, a warrant shall be issued for his/her arrest. The Assignment Office shall prepare the said notice for distribution by the Clerk.

3.1 Indictment cases are scheduled within 120 days.

3.1.1 Jury trial prayers in motor vehicle cases are scheduled for trial within 60 days.

3.1.2 Criminal jury trial prayers are scheduled within 90 days.

3.1.3 Appeals from the District Court which do not involve jury trials are scheduled within 30 days without the necessity for a pre-trial conference.

4. Pre-Trial Conferences

Pre-Trial Conferences are held in all criminal cases which are scheduled for a jury trial. The purpose is to reduce the number of juries called in unnecessarily because the defendant accepts a plea offer on the day of trial or because the jury trial will not take place due to some other reason. If a case is to proceed to trial, pre-trial also allows the judge to be sure that all preliminary matters have been resolved.

The defendant is required to appear for the Pre-Trial Conference whether or not he/she is represented by counsel.

Counsel are expected to have discussed the case prior to coming to the Pre-trial. The State is required to make an offer before the Pre-trial and to communicate with defense counsel. Defense counsel shall explain the offer to his/her client and make a decision on whether or not to accept the State's offer before the Pre-trial.

At Pre-Trial, counsel are to inform the judge whether the case will proceed by way of a guilty plea, court trial, jury trial, stet or nolle prose. If the case will be resolved without trial, the resolution should be put on the record immediately. If no agreement has been reached the pre-trial judge shall inquire into the communications between the parties and the reasons for non agreement.

If a jury case settled for any reason after the pretrial and before trial, counsel must inform the Court at least 24 hours prior to the scheduled date and time for trial not to call in jurors. Failure to do so will expose counsel to appropriate sanction(s).

5. Trial

Requests for voir dire questions, with witness list, shall be filed by counsel no later than 8:30 A.M. on the day of trial, and shall be directed to the appropriate law clerk, or the assigned judge.

In cases where the defendant wishes to enter a guilty plea, counsel is expected to have reviewed with the defendant and completed the Examination of Defendant Prior to Acceptance of Guilty Plea(s) prior to the beginning of the court session.

Counsel are to be in the courtroom 15 minutes prior to trial to pre-mark any exhibits.

5.1 Assignment of Trial Judge

To the greatest extent possible, consistent with timeliness and availability of judges, the Court will assign cases for trial to the same judge who conducted the pretrial conference except in cases from the District Court on jury prayers and appeals.

6. Postponements

The Circuit Court for Cecil County has a strict postponement policy. As counsel have had an opportunity to ascertain their own availability and the availability of witnesses before a trial date is set, trial dates are considered firm. The case will be postponed only for good cause shown on a case by case basis, consistent with the postponement policy of this Court set forth herein at Section 1.1.

7. Open Case Report

At the beginning of each month the Assignment Commissioner prepares a report of all open criminal cases showing case number, name of defendant, initial appearance date, Hicks date, date case was set for trial, trial date and/or sentencing date. A copy of this report is promptly given to the County Administrative Judge and State's Attorney each month. The status of each case noted on this report is updated daily. Frequent review of this report by the Administrative Judge, the State's Attorney's Administrative Assistant and the Assignment Clerk will ensure that all cases are handled properly.

PART VII

CIRCUIT COURT FOR CECIL COUNTY

ADMINISTRATIVE ORDER J-09-01

Enactment of Differentiated Case Management Plan

The foregoing Differentiated Case Management Plan is enacted and has binding effect on all Judges, officers, and employees of this Court effective January 1, 2009, subject to the approval of the Court of Appeals.

_____/s/_____
Richard Eli Jackson
Administrative Judge